

## UTAH COUNCIL ON VICTIMS OF CRIME

Thursday, March 18, 2010

Lunch - 11:30 a.m.

Meeting - 12:00 p.m.

Beehive Room  
1<sup>st</sup> Floor East Building  
Capitol Complex  
Salt Lake City, Utah

### MINUTES

#### In Attendance:

Reed Richards  
Ron Gordon  
Mel Wilson  
Doug Fawson  
Ned Searle  
Steve Schreiner  
Allison Williams

Christine Watters  
Laura Blanchard  
Yvette Rodier  
Shelley Haupt  
Cecelia Swainston  
Jeff Carr, guest

James Swink  
Patricia Sheffield  
Marlesse Whittington  
Clint Kelly  
Kirk Torgensen  
Jacey Skinner, guest

Agenda Item:	Welcome & Introductions, Reed Richards
Discussion:	Reed welcomed everyone and convened the meeting.

#### Committee Reports:

Agenda Item:	Annual Crime Victims Conference, Yvette Rodier
Discussion:	<p>Yvette informed the Council that things are coming along well and Allison has done a great job getting things together. There is a conflict though with the second day of the Conference because the Utah Prosecution Council scheduled a conference that starts on the second day of ours. We are hopeful we will still have a good attendance especially since we are working on securing CLE credits.</p> <p>OVC was going to help us with funding, but we will try again next year because they are not able to work with any of our presenters this year. Yvette asked the Council to think about nominating someone for the annual Crime Victim Service</p>

	<p>Awards. She then asked who the Council wanted for the Legislator of the Year award. Laura suggested Rep. Lori Fowlke and James suggested Rep. Curt Webb. Yvette also liked Curt Webb because he was very helpful and great to work with. Patricia suggested we award both Rep. Webb and Fowlke; there is no reason not to award two. James also asked that we thank all the legislators who helped us this year.</p>
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Agenda Item:	<p>Legislation</p> <p>James wanted to thank Reed, Mel, Yvette, Ron and Laura. He appreciates everyone who showed up to the legislative committee meetings. Reed thought overall this was a good session, especially for those who didn't have fiscal notes attached to their bills, which normally might not have gone through.</p>
Discussion: HB 293 Victim Rights Amendments Sponsor- Rep. Webb	<p>Yvette Rodier</p> <p>Mel first wanted to say that he was grateful to Yvette for all of her work. In last year's HB150 where we created the right for victims to appeal certain actions under certain conditions they inadvertently deleted two statutory things in the code so this bill was an attempt to put those two back in. The bill passed out of the House, got stuck in the Rules Committee, but was passed on the last day so the provisions are now back in the Act. This oversight initially took away many of the cases the Clinic normally would have worked on. Mel wanted to reiterate his gratefulness to Yvette and for Ron's work to get them on the Governor's list.</p>
Discussion: SB 50 Victims Rights Amendments Sponsor- Rep. Adams	<p>Mel Wilson</p> <p>In SB50, which went through rather readily, we changed the appointing process of the Judicial District Victim's Rights Committee Chair from the presiding judge to the Council chair. It also provides not only the appointment process but the requirement for each committee to send all their minutes to the Council for review, rather than CCJJ. James said this was a good change for the Council.</p>
Discussion: Release of Court Documents & Child Interviews Sponsor- Rep. Fowlke	<p>Laura Blanchard</p> <p>HB133, with the help of Kris Knowlton, who helped re-write it, and Rep. Fowlke, passed. The main focus was to get the wording very specific to CJC because DCFS was worried this</p>

	<p>bill would effect other interviews which would then trigger a fiscal note. They didn't need to add a fiscal note on something they're doing anyway, i.e. the part about pro se litigants. They put in one floor amendment to make sure that if the judge forgot to give the pro se litigant the info that it wouldn't cause trouble later on. Laura thinks this is a good bill and it's good that Kris Knowlton has created some material to help enforce this. James suggested that each Judicial District Victim's Rights Committee be responsible for handing this info out. The UPC website would also be a good place to put this information. Jacey is currently working on the booklets that they will pass out. James will call Mark and ask if we can put this info on their website.</p>
<p>Discussion: SB 277 DNA Changes Sponsor- Rep. Adams</p>	<p>Reed Richards</p> <p>Ed Smart was quite involved and wanted to run the bill this year and the end result was good. The bill provides that you can take DNA for violent felonies at the time of booking. The DNA will not be tested until there is a probable cause hearing, which won't be too difficult. There is still an issue of taking the DNA even though you aren't testing it so we will have to wait and see what happens. It's a lot simpler to take the DNA though at the time of booking, it simplifies the whole process. The money is still collected from the individual which is now \$150 per person and can be collected at a later time. The collections can't be done until after conviction because there might be a challenge.</p> <p>This bill will require some education at the jails mostly. It becomes effective the first of next year. The desired end result is if we can get the DNA in the system earlier it will help solve crimes. Ron thinks this bill has some serious problems especially when reviewed by our State Supreme Court which doesn't usually rule favorably and in the end we don't end up with very much. Ron isn't sure if it's good policy and isn't sure what action to take on the bill. Mel asked if the increase in the fee applies to everyone or just the violent felony crimes. Reed said you could have the potential to increase the amount of funds you raise with the actual amount of DNA samples taken; it would definitely increase the amount of money raised. The downside is that it takes two years to process any of these samples.</p> <p>Reed gave an example of having a rape case and violent felony where DNA was taken at booking. It later becomes significant to</p>

	<p>have the alleged perpetrator's DNA to compare so the question is can you go back and get that DNA and test it or do you have to get a court order to test it. He thinks the case law would be pretty clear that you would have to get a warrant.</p> <p>Yvette said this bill will be litigated, but the fiscal note should be revenue mutual because of the higher fee. What would happen to all those samples thrown out if they needed to get the DNA again? Most violent felonies usually end up getting convicted. Only one out of 100 would likely not be charged. We think this is the first step for Ed, to ultimately get the DNA collected and processed, but then keep adding more things in the bill. Reed's issue is not taking it at booking, but taking it for violent misdemeanors.</p>
<p>Discussion: HB 21 Expungement Sponsor- Rep. Fisher</p>	<p>James Swink</p> <p>James wanted to note that Jacey worked on this bill a lot. We didn't get everything we wanted because Rep. Fisher didn't want to make any policy changes. Unfortunately, the statute is freer with expungements than it previously was. Restitution is still in there and you can't expunge sex felonies, etc. So it is freer in the fact that you can expunge four misdemeanors and one felony. It use to be three, but now it's five total. One issue is that you have to wait five years for a Class A misdemeanor to be expunged. James said they were concerned about expunging DV charges, given that there may be one or two years that pass that aren't covered by this statute. We should probably look into this next year. This does help the bureau make easier decisions and it takes the guesswork out of it for them. Reed suggested we keep this on the radar.</p>
<p>Discussion: HJR 006 Strangulation &amp; Domestic Violence Joint Resolution Sponsor- Rep. Seelig</p>	<p>Ned Searle</p> <p>There were a couple dating violence bills that had a big impact: HB303 and SB45. HB303 was clarified by Jacey, which just modifies the Cohabitant Abuse Act. The DV community was very happy with this one. The other one that had a big impact was SB45, which they didn't get to have any input on, but was still a good thing letting DV victims have a way to get out of their lease.</p>
<p>Discussion: SB 154 Post Conviction Remedies Act Sponsor- Sen. Adams</p>	<p>Kirk Torgensen</p> <p>SB154 passed and so it is our hope that this will speed up the appeals process.</p>

Discussion: Domestic Violence Bills	<p>Ned Searle</p> <p>Rep. Ray is going to run the dating violence bill next year. Some wondered if he would be open to the age of 16, but will stick with 18 for now. Ned will brief him on all of this in the next couple weeks.</p> <p>SB45 states that only a protective order can be used as evidence; police reports being used to get a DV victim out of a lease was taken out so we need to put that back in there.</p>
Discussion: Surcharge Bills	<p>Mel Wilson</p> <p>The surcharge on felony crimes was 85%, but is now increased to 90%. This means that when the court orders a fine this surcharge is automatically put in place. CVR receives 35%, CCJJ receives 8.2% and 4.5% comes to Mel's office to be given out to municipal law enforcement agencies in which a halfway house is located. The policy of the bill is that halfway houses increase crime where they are located so police departments need additional resources to combat those additional crimes. This would generate \$600,000 and they get it first on a formula grant based on the percentages of halfway house beds.</p> <p>This bill will likely be signed. All this does is make sure that the fine money goes to fine recipients and surcharge money goes to surcharge recipients. It is capped on an annual basis although the question is whether we will even meet a cap. Felonies, Class A misdemeanors and some Class B misdemeanors are included. Currently, surcharge collections are down so need to make sure the officers are on top of this.</p>
Discussion: Son of Sam	<p>Yvette Rodier</p> <p>Reed indicated we still have Son of Sam, we just don't know how enforceable it is. We still want to make sure that people can't profit from bad acts so we will work on this next year. Yvette never got the opportunity to talk to Curt about his concerns so she plans to be aggressive and find out what the issues are and work through them. It looked like though, a forfeiture issue as well as a manpower concern on their part. Curt indicated he was happy to sponsor it again. Scott, Reed and Lana Taylor will help Yvette.</p>
Discussion:	<p>Marlesse Whittington</p>

	<p>Marlesse is researching and writing a paper about wrongful conviction proceedings. No one is giving victims notice during wrongful conviction cases, except in rape cases notice covers judicial proceedings through appellate and federal habeas. The Innocence Project won't notify the victims, but she thinks victims should be notified of the proceedings in these cases.</p> <p>The National Innocence Project Conference is something she would like to attend; they asked her to head up a roundtable discussion at this conference which is April 16<sup>th</sup> – 18<sup>th</sup>. The downside is that it's fairly expensive, but they are waiving the registration fee so all she needs money for is the airfare and hotel costs. Marlesse asked the Council if they thought it was an issue and would therefore consider sponsoring her to attend. Christine thought it raised some good issues about when a victim should be notified of an appeal. We know that on the federal level they are required to notify the victims. For example with a child sex abuse case they will get notified even at adult age unless they opt out. Yvette would be interested in hearing what victims have to say because each victim is different on what information they want to know.</p> <p>Reed said the issue itself is fascinating, but thought that Marlesse could ask Heidi, for example, to sponsor her in her grant. Mel, in terms of funding, thinks it might be a good idea to set aside a certain amount of surplus each year to put into a scholarship fund. Mel would recommend though that Marlesse pursue this issue with Heidi. Cecelia offered that if the organizers receive any OVC funds that she could try them for funding. With the travel freeze in the state the Council couldn't support this anyway. Mel made a motion to support this issue, Patricia seconded and everyone agreed.</p>
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Agenda Item:	DV Sentencing Matrix, Ned Searle
Discussion:	<p>Ned has learned a lot about framing the last couple years and has found out people do not like this being called a matrix so for now he is referring to it as the DV Sentencing Guidelines. He wants a good finished product that is well thought out so they are still doing research, which has been a struggle, such as what are the predictors for re-offending, recidivism rates, how to distinguish between low, medium and high offenders, etc. Moises is out talking to judges, prosecutors, treatment providers,</p>

	<p>etc. on what their thoughts are. There has been concern for years that the same people are using the same treatment providers, though it may not be best. It's also a constant struggle filling out the info and getting this in front of a judge.</p> <p>Ned apologized that it has taken him a lot longer than he thought to finish this, but he wants to be happy with the finished product when he comes back to present. Christine wants him to take into account what the victims feel comfortable with, not just focus on the perpetrator. Ned said that's his role in this whole process, to say yes, but the victim needs to be safe, protected, and this will work or won't work, etc. Laura also wanted to maintain that victim safety is paramount. Ned said that Laura, Christine or anyone else is welcome to help him and give input.</p>
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Agenda Item:	VINE System, Mel Wilson
Discussion:	<p>They have been getting a number of complaints, mainly about systems going down, but also a small number relating to getting rid of the court system altogether. The problem is really something the jails need to do something about. Ron and Cacey had gone to a training with the Sheriff's Association about VINE. Mel would like to work out a way with Reed to mandate the Sheriff's and find out what their feelings are on VINE; is it really a priority in their programs?</p> <p>There are a lot of problems that really are just a training issue such as the info a victim gets indicates that a perpetrator is being released even if they are just being transferred- the victim doesn't get that info. Reed would be happy to coordinate a time with both the Sheriff's Association and the Jail Commander's group, which meets four or five times a year. With the Sheriff's it's just a matter of policy. Mel and Reed will work on this issue. On a side note the Department of Corrections has about 13,000 people registered with VINE; of those about 8,000 are through email.</p>

Agenda Item:	Annual Meeting, Reed Richards
Discussion:	Allison will send an email out with all the information on the meeting. James will look into organizing a dinner either Tuesday or Wednesday night.

Agenda Item:	Next Meeting
Discussion:	Annual Meeting, June 16 <sup>th</sup> and 17 <sup>th</sup> , 2010 at Marriot Riverwoods Conference Center in Logan.

<b>Action Items:</b>	
	<ul style="list-style-type: none"> <li>• James call Mark Nash about the website</li> <li>• Yvette and others keep working on Son of Sam</li> <li>• Mel and Reed work on the VINE issue</li> <li>• Allison send out email about Annual Meeting</li> <li>• James organize annual meeting dinner</li> </ul>